

# Agenda

## Item #2

**Request to Investigate Expenditures by Michaud for Congress**



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: October 9, 2014

Re: Request by the Maine Republican Party to Investigate Expenditures by Michaud for Congress

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The executive director of the Maine Republican Party (MRP) requests that the Ethics Commission investigate whether the federal campaign committee of U.S. Representative Michael Michaud ("Michaud for Congress") used its federal campaign funds in the fall of 2013 through May 2014 to influence the election of Rep. Michaud to the office of Governor. (See attached letter dated October 7, 2014.) The compliance issue within the Commission's jurisdiction is whether the expenditures amount to an unreported and possibly over-the-limit contribution by Michaud for Congress to Rep. Michaud's gubernatorial campaign:

- On November 14, 2013, Michaud for Congress paid \$500 to the Maine AFL-CIO. In the campaign finance report filed with the Federal Election Commission, the purpose of the disbursement was described as "event sponsorship." The MRP asserts this \$500 payment was in connection with a Maine AFL-CIO event that occurred on or about October 28, 2013, at which Rep. Michaud received the endorsement of the labor organization for the gubernatorial election. The MRP provided a link to a 14-minute video on YouTube containing a speech by Rep. Michaud at the event.
- The MRP lists six other expenditures which it asserts were "clearly designed" to support Rep. Michaud in his race for Governor. However, the MRP has not provided any additional information in support of this assertion.

The MRP alleges that all disbursements from Michaud for Congress to promote Rep. Michaud's election as Governor should have been reported by Rep. Michaud's gubernatorial campaign as in-kind contributions from his federal campaign committee.

### **Legal Compliance Issue**

If the funds from Michaud for Congress were used to promote Rep. Michaud's election as Governor, those payments *could* constitute contributions to the state campaign, under the following law.

The term expenditure is defined in Maine campaign finance law as a  
payment ... of money ... made for the purpose of influencing the  
nomination or election of any person to state, county or municipal office  
...."

(21-A M.R.S.A. § 1012(3)(A)(1))

Expenditures made in cooperation or consultation with a candidate, the candidate's political committee, or their agents are considered a contribution to the candidate. (21-A M.R.S.A. § 1015(5)) Thus, any expenditures by Michaud for Congress made to promote the candidate's election as Governor that were coordinated with the candidate, or his state campaign committee, or their agents would be contributions to Rep. Michaud's state campaign.

Any in-kind contributions received by a gubernatorial campaign must be reported in campaign finance reports submitted to the Commission (21-A M.R.S.A. § 1017(5)) and are subject to the \$1,500 contribution limit in 21-A M.R.S.A. § 1015(5) (the Commission's enforcement of this limit has been modified for this election only, due to the *Woodhouse* litigation brought by donors to Eliot Cutler).

Thank you for your consideration of this memo.

**Wayne, Jonathan**

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**From:** David Sorensen <david@mainegop.com>  
**Sent:** Tuesday, October 07, 2014 7:02 PM  
**To:** Wayne, Jonathan; Lavin, Paul  
**Cc:** wlogan@ilmlaw.com; Rick Bennett; Jason Savage  
**Subject:** Request for Investigation  
**Attachments:** Ethics Complaint 10-7-14.docx; michaudaficio presence.JPG

Jonathan and Paul,

Attached please find a complaint and request for investigation of certain campaign activities of Congressman Michaud.

Please consider this Youtube video: <https://www.youtube.com/watch?v=ZSwA57al-54>

And the attached picture as addenda to the complaint.

Best,

David

--

David Sorensen  
Communications Director  
Maine Republican Party  
207.205.7793 | @DSorensenME

Jason Savage, Executive Director  
Maine Republican Party  
9 Higgins Street  
Augusta, ME 04330

OCT 9 2014

October 7, 2014

Jonathan Wayne, Executive Director  
Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333

Dear Mr. Wayne:

The Maine Republican Party requests an investigation by the Ethics Commission into the improper use by Congressman Michael Michaud of federal election funds to support Mr. Michaud in his race for governor.

Congressman Michaud accepted campaign contributions to his federal campaign committee after the date he terminated his candidacy for federal office. The Federal Election Commission in a letter dated December 13, 2013 forced him to refund those contributions which were in violation of federal election law. The illegal contributions consisted of \$10,000 given by various PACs.

Disbursements made in the first quarter of 2014 and in the 12-day pre-primary report, well after the termination of Michaud's congressional re-election campaign, were clearly designed to support Michaud's state-level race for governor:

- \$7,900 to Equality Maine, an activist organization that endorses candidates and endorsed Rep. Michaud.
- Food and beverages for campaign-style events, including to the National Democratic Club.
- A personal computer for Michaud himself, in the amount of \$1,989.10.
- Cellular and landline phone bills paid to Fairpoint and Verizon.
- A \$1,150 hotel stay in Chicago, IL.
- Payments for consultants, contributions to liberal activist groups, phone bills, and more were made well into May 2014, nearly a year after Michaud terminated his candidacy for Congress.


Perhaps most notably, Michaud contributed, via his federal election fund, \$500 to the AFL-CIO for "event sponsorship" on November 14, 2013. Michaud made no such contribution via his gubernatorial campaign fund. However, the Maine Republican Party has video and photographic evidence of Michaud making a gubernatorial campaign speech and standing behind a podium and in front of a table with his "Michaud 2014" gubernatorial campaign logo displayed on or around October 28, 2013.

This means that Michaud used federal election funds to sponsor an event which he attended for the purpose of promoting his state campaign for governor. Such an expenditure, and any of the other above-referenced expenditures in furtherance of Michaud's state-level campaign, should have been filed by Michaud's gubernatorial campaign committee as a contribution from Michaud's congressional campaign committee.

These payments represent nothing more than the use of federal funds as a slush fund to bolster a state-level political campaign here in Maine. The Commission has jurisdiction to investigate this potentially illegal activity because it concerns expenditures made to support a gubernatorial campaign within the Commission's jurisdiction.

Please do not hesitate to contact me should you have any questions about this complaint and request for investigation.

Sincerely,



Jason Savage  
Executive Director  
Maine Republican Party



Maine AFI  
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with Mike Michaud for  
Boyington.

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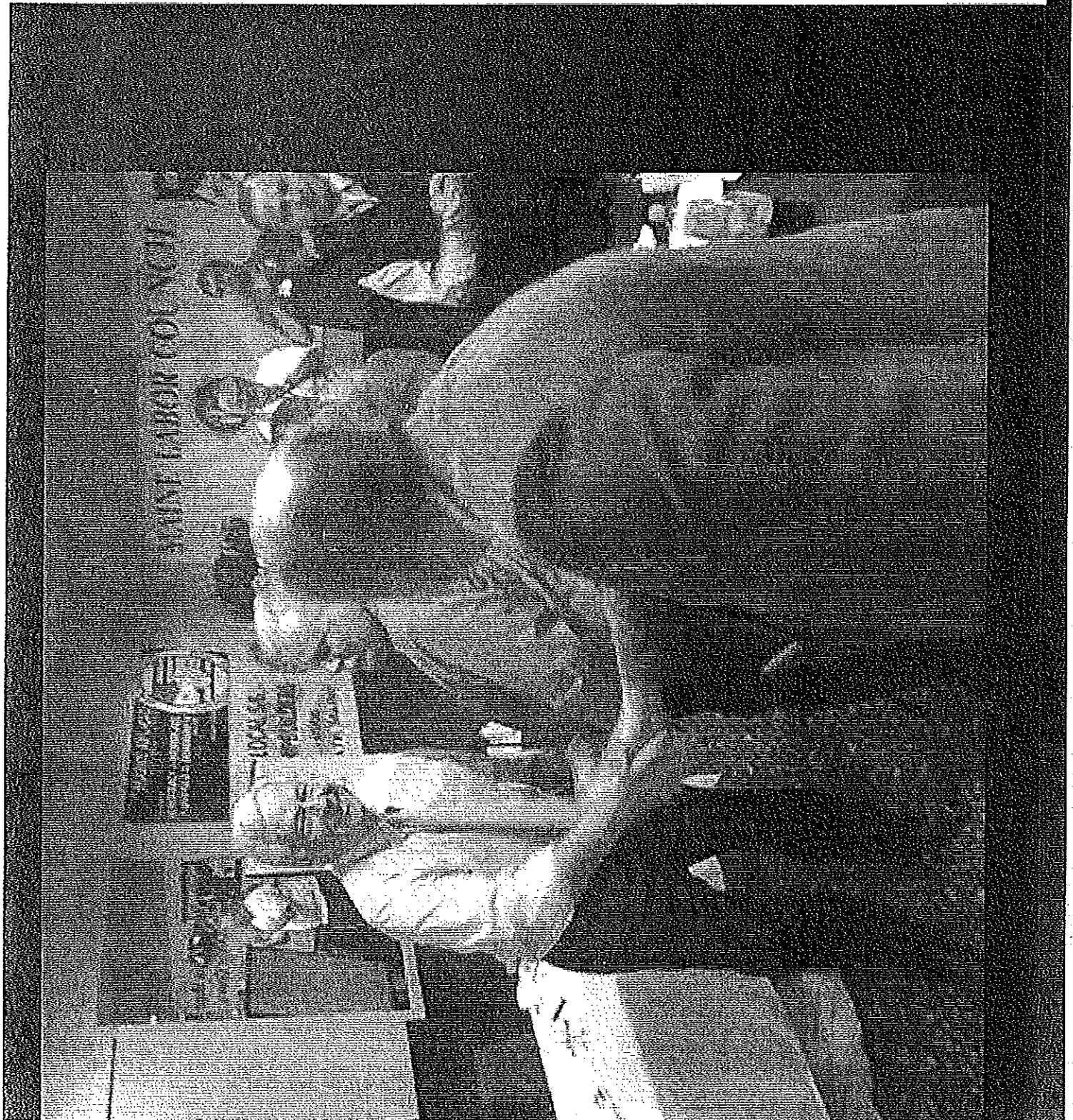


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STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

October 8, 2014

Matthew McTighe, Campaign Manager  
Michaud for Maine  
P.O. Box 1590  
Portland, ME 04104

Dear Mr. McTighe:

This letter is to convey the request for investigation by the Maine Republican Party (MRP) alleging that the federal campaign committee of U.S. Representative Michael Michaud made expenditures to promote his election to the Office of Governor. The compliance issue within the Commission's jurisdiction is whether any of the payments constituted an unreported contribution to Rep. Michaud's campaign for Governor.

**Relevant Maine Election Law**

The term expenditure is defined in Maine campaign finance law as a "payment ... of money ... made for the purpose of influencing the nomination or election of any person to state, county or municipal office ...." (21-A M.R.S.A. § 1012(3)(A)(1)) Expenditures made in cooperation or consultation with a candidate, the candidate's political committee, or their agents are considered a contribution to the candidate. (21-A M.R.S.A. § 1015(5))

Within the 28 days before an election, the Commission is required to meet within two business days of the filing of any complaint or request for investigation. (21-A M.R.S.A. § 1002(1))

**Request for Preliminary Response**

The MRP's request is scheduled for a meeting of the Commission at 2:30 p.m. on Friday, October 10 at the Commission office at 45 Memorial Circle in Augusta, Maine. The Commission staff suggests that the Michaud campaign be present to respond to the allegations in the request. We also recommend that you submit a written response -- no later than tomorrow if possible -- that addresses the following:

- Please explain the purpose of the November 14, 2013 payment of \$500 to the Maine AFL-CIO. Was this payment made for the purpose of influencing Rep. Michaud's nomination or election to the Office of Governor in the 2014 elections?

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775



Mr. Matthew McTigue

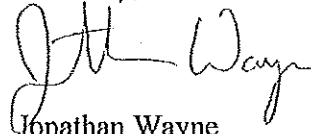
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October 8, 2014

- Please describe the purpose of the other payments referred to in the bullet points of the first page of the MRP's letter. Please state whether those payments promoted Rep. Michaud's election to the Office of Governor.

Thank you for your cooperation. If you have any questions, please call me at 287-4179.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is fluid and cursive, with the first name "Jonathan" written in a larger, more prominent script than the last name "Wayne".

Jonathan Wayne  
Executive Director

cc: Jason Savage, Executive Director, Maine Republican Party

**SCHEDULE B (FEC Form 3)**  
**ITEMIZED DISBURSEMENTS**

 Use separate schedule(s)  
 for each category of the  
 Detailed Summary Page

 FOR LINE NUMBER:  
 (check only one)

PAGE 8 OF 15

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

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NAME OF COMMITTEE (In Full)

Michaud for Congress

Full Name (Last, First, Middle Initial)

**A. Maine AFL-CIO**

Mailing Address 21 Gabriel Drive

City	State	Zip Code
Augusta	ME	04330

 Purpose of Disbursement  
 Event sponsorship

Candidate Name

 Category/  
 Type

 Office Sought: ☐ House  
☐ Senate  
☐ President

 Disbursement For: 2014  
☒ Primary ☐ General  
☐ Other (specify)

State: District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
11			14			2013			

Amount of Each Disbursement this Period

500.00

Transaction ID : D428264

Full Name (Last, First, Middle Initial)

**B. Merchant Card Processing**

Mailing Address PO Box 6600

City	State	Zip Code
Hagerstown	MD	21740

 Purpose of Disbursement  
 Credit Card Processing

Candidate Name

 Category/  
 Type

 Office Sought: ☐ House  
☐ Senate  
☐ President

 Disbursement For: 2014  
☒ Primary ☐ General  
☐ Other (specify)

State: District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
11			01			2013			

Amount of Each Disbursement this Period

6.95

Transaction ID : D428281

Full Name (Last, First, Middle Initial)

**C. Merchant Card Processing**

Mailing Address PO Box 6600

City	State	Zip Code
Hagerstown	MD	21740

 Purpose of Disbursement  
 Credit Card Processing

Candidate Name

 Category/  
 Type

 Office Sought: ☐ House  
☐ Senate  
☐ President

 Disbursement For: 2014  
☒ Primary ☐ General  
☐ Other (specify)

State: District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
10			01			2013			

Amount of Each Disbursement this Period

6.95

Transaction ID : D428066

SUBTOTAL of Disbursements This Page (optional).....

513.90

TOTAL This Period (last page this line number only).....